

Serial No. 10/724,474**Patent
13060-02USA****REMARKS**

Claims 1-21 are pending in the application. The amendment to claim 20 serves to further clarify the present invention. No new matter has been inserted into the application. Accordingly, entry of the amendments to the application is respectfully requested.

Claim Objection

Claim 20 has been objected to because of the allegedly indefinite language, "may be". Claim 20 has been amended to further clarify the present invention. Therefore, it is believed that this objection has been overcome.

Rejection Under 35 U.S.C. § 102(b) by Teller (U.S. Patent Application Publication No. 2002/0013538)

Claims 1-4, 7, 11-15, and 19-21 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Teller. Applicant traverses this rejection. Reconsideration and withdrawal thereof are respectfully requested.

Applicant asserts that the presently claimed invention is distinguished from Teller.

The Present Invention

The inventive monitoring device comprises a single unit device comprising sensors, a display screen, a microprocessor and a means for communicating with a computer as exemplified in FIG. 2. The monitoring device processes the data without being connected to a separate microprocessor unit. The inventive monitoring device may be connected to accessory computers by networking for performance of other inventive features.

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Teller discloses a health monitoring system comprising several individual units connected to each other to process the data measured by a sensor unit worn by a patient. Other required units for Teller's health monitoring system include a receiving unit, a display unit, and a network interface unit. As shown in Fig. 1 in the Teller reference, signals must be transmitted from the sensor unit to the receiving unit to monitor the health signs.

Rejected Claims

Claim 1: The Examiner states that Teller discloses a health monitoring device comprising: a) a skin temperature sensor 102 connected to a microprocessor 114; b) a movement sensor; c) a display screen 112; and d) a means 202 for communicating with a computer as disclosed in the present application.

Distinctions of the presently claimed invention over TELLER

Teller discloses a health monitoring system which is connected by several individual units including a sensor unit 102, a receiving unit 110, a display unit 112, a computer port unit 114 (microprocessor) and a network interface unit 116. Applicant submits that the sensor unit in Teller is worn by a patient and the sensor unit itself lacks a microprocessor and a display screen. Thus, the sensor unit itself alone cannot display the monitored health signs. The sensor unit of Teller must be connected to a microprocessor and a display screen which are physically separated from the sensor unit to be able to display the monitored signs.

In contrast, the inventive monitoring device alone comprises the system of the present invention as exemplified in FIG. 2. In other words, the inventive monitoring device comprises a microprocessor and a display unit in a single unit worn by a baby enabling monitoring of health

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signs without being connected to any other unit. The inventive monitoring device also displays health condition on the same unit as exemplified in FIG. 10. Other elements such as personal computers and a repeater that may be included in the inventive system may be connected to the inventive monitoring device to communicate with each other. Therefore, Teller fails to disclose or suggest a monitoring device comprising all of the components in a single unit to process and analyze the data as in the presently claimed invention. Therefore, Teller fails to anticipate the present invention.

Claim 2: The Examiner states that Teller discloses using a humidity sensor indirectly from the internet.

Distinctions of the presently claimed invention over TELLER

Teller discloses that the system computer may be connected to the internet to extract a measurement of the environmental temperature, barometric pressure, humidity to develop an analysis that not only reflects the individual body conditions, but also takes into account environmental factors. Teller further discloses that "these additional items of information are available from a variety of sources without necessitating adding additional sensors or monitors to the present system." Applicant submits that Teller's system is only connected to the internet to gain environmental humidity information. However, Teller fails to disclose or suggest a device having a "humidity sensor" as in the presently claimed invention. Therefore, Teller fails to anticipate the present invention.

Claim 3: The Examiner states that the device in Teller is shaped as a band.

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Distinctions of the presently claimed invention over TELLER

Distinctions of the presently claimed invention over Teller are described above in response to the rejection of claim 1, which claim 3 depends from. Teller fails to disclose or suggest a monitoring device as claimed in claim 1 of the present application. Accordingly, since claim 1 is believed to be free of prior art, it is believed that the dependent claim 3 is free of prior art as well.

Claim 4: The Examiner states that the device could be used on a baby's appendage.

Distinctions of the presently claimed invention over TELLER

Distinctions of the presently claimed invention over Teller are described above in response to the rejection of claim 1, which claim 4 ultimately depends from. Accordingly, since claim 1 is believed to be free of prior art, it is believed that the dependent claim 4 is free of prior art as well.

Claim 7: The Examiner states that the computer in Teller is connected to a web server so as to be in communication with other computers at home or at hospital.

Distinctions of the presently claimed invention over TELLER

Distinctions of the presently claimed invention over Teller are described above in response to the rejection of claim 1, which claim 7 ultimately depends from. Accordingly, since claim 1 is believed to be free of prior art, it is believed that the dependent claim 7 is free of prior art as well.

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Claim 11: The Examiner states that Teller discloses a chart comprising corrected skin temperature profile over a set time period.

Distinctions of the presently claimed invention over TELLER

First of all, Applicant submits that no disclosure of a chart comprising corrected skin temperature profile over a set time period could be found in Teller. In particular, the Examiner has indicated that paragraph [0073] in Teller discloses the chart. However, Applicant submits that there is no disclosure of any such chart in paragraph [0073].

In contrast, the inventive chart is exemplified in FIG. 6 of the present application. Further, FIG. 5 of the present application shows a flow chart of how a corrected skin temperature is obtained and how normal corrected skin temperature values are obtained as shown in FIG. 6. However, Teller fails to disclose or suggest a chart comprising corrected skin temperature profile over a set time period as claimed in the present invention. Therefore, Teller fails to anticipate the present invention.

Claim 12: The Examiner states that the chart in Teller comprises ambient temperature profile over the set time period.

Distinctions of the presently claimed invention over TELLER

Distinctions of the presently claimed invention over Teller are described above in response to the rejection of claim 11, which claim 12 depends from. Accordingly, since claim 11 is believed to be free of prior art, it is believed that the dependent claim 12 is free of prior art as well.

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Claim 13: The Examiner states that Teller implicitly discloses a chart comprising movement profile over the set time period.

Distinctions of the presently claimed invention over TELLER

Again, Applicant submits that there is no disclosure of any chart in Teller. In particular, the Examiner has indicated that paragraphs [0073] and [0119] in Teller implicitly discloses the chart comprising movement profile over the set time period. However, Applicant submits that there is no implicit disclosure of any such chart in the mentioned paragraphs.

In contrast, the inventive chart is exemplified in FIGS. 7 and 8 of the present application. However, Teller fails to disclose or suggest a chart comprising corrected skin temperature profile, ambient temperature profile and a movement profile over the set time period as claimed in the present invention. Therefore, Teller fails to anticipate the presently claimed invention.

Claims 14 and 15: The Examiner states that the chart in Teller is displayed on a solid medium, which is display screen 112.

Distinctions of the presently claimed invention over TELLER

Applicant disagrees with the Examiner's statement. Applicant submits that Teller fails to disclose or suggest a chart displayed on a display screen. Applicant respectfully requests the Examiner to clearly and distinctly point to a passage in the Teller reference that explicitly or implicitly discloses a "chart". In the absence of such a disclosure, Applicant submits that Teller fails to anticipate the present invention.

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Claim 19: The Examiner states that Teller discloses a method of identifying a viral infection pattern comprising reviewing and analyzing a corrected temperature profile, ambient temperature profile of a baby and comparing with an established profile.

Distinctions of the presently claimed invention over TELLER

Applicant disagrees with the Examiner's statement. FIG. 9 of the present application shows time-correlated profiles of corrected skin temperature (T_{skin}); ambient temperature (T_{room}); and movement which is reviewed and analyzed to identify a viral infection pattern. However, Teller fails to disclose or suggest a method of identifying a viral infection pattern comprising reviewing and analyzing a corrected temperature profile, ambient temperature profile of a baby and comparing with an established profile as in the present invention. Therefore, Teller fails to anticipate the present invention.

Claim 20: The Examiner states that the established profile disclosed in Teller may be provided by a computer at home or computer at hospital, and stored in a common server that links computer at home and computer at hospital.

Distinctions of the presently claimed invention over TELLER

As described above in response to the rejection of claim 19, which claim 20 depends from, Teller fails to disclose analysis of a corrected temperature profile, ambient temperature profile and movement profile. Therefore, Teller fails to anticipate the presently claimed invention.

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Claim 21: The Examiner states that paragraph [0119] in Teller discloses a method of identifying early onset of a viral infection comprising reviewing and analyzing a corrected temperature profile, ambient temperature profile and movement profile of a baby and comparing them with an established profile, wherein matching profile indicates early onset of the viral infection.

Distinctions of the presently claimed invention over TELLER

Paragraph [0119] in Teller discloses that the sensor may include a combination of position or movement sensors and may be used to identify presence of a possibly undesirable or dangerous condition such as Sudden Infant Death Syndrome, which is believed not to be related to a viral infection but is known to be caused when babies sleep face down. However, Teller fails to disclose or suggest a method of identifying early onset of a viral infection as in the present invention. Therefore, Teller fails to anticipate the presently claimed invention.

Rejection Under 35 U.S.C. § 103(a) Over Teller

Claims 5, 6, 8-10, and 16-18 have been rejected under 35 U.S.C. § 103(a) as being "obvious" over Teller alone. Applicant traverses this rejection. Reconsideration and withdrawal of this rejection are respectfully requested.

Rejected Claims

Claims 5-6: The Examiner states that it would have been obvious to use a repeater at the home computer because the use of a repeater in a computer system to receive signal is conventional in the art.

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13060-02USA****Distinctions of the presently claimed invention over Teller**

The Examiner has failed to establish *prima facie* obviousness of the claimed invention. Teller is discussed above. Teller fails to disclose or suggest a monitoring device comprising all of the components in a single unit to process and analyze the data as in the presently claimed invention. Further, Teller fails to provide any motivation to make a device with these features on a single device. Accordingly, the presently claimed invention is not obvious over Teller and it is believed that the rejection has been overcome.

Claim 8: The Examiner indicates that it would have been obvious to consider infrequent movements of the baby as a factor to determine an abnormal situation in the Teller's monitoring system.

Distinctions of the presently claimed invention over Teller

The Examiner has failed to establish *prima facie* obviousness of the invention. Teller is discussed above. Teller fails to disclose or suggest a monitoring device comprising all of the components in a single unit to process and analyze the data as in the presently claimed invention. Teller also fails to disclose or suggest simultaneously monitoring, comparing and analyzing corrected skin temperature and movement of a baby, and ambient temperature surrounding the baby with the inventive monitoring device. Thus, in view of the fact that Teller fails to provide any motivation to make a device with the indicated features on a single device and further any motivation to monitor a baby for the various indications, the Teller reference cannot be said to support an obviousness rejection of the presently claimed method. Accordingly, the presently

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claimed invention is not obvious over Teller and it is believed that the rejection has been overcome.

Claim 9: The Examiner states that the instructions disclosed in Teller appears to be in a computer program which is inherently in written form.

Distinctions of the presently claimed invention over Teller

The Examiner has failed to establish *prima facie* obviousness of the invention. As described above in response to rejection of claim 8, which claim 9 depends from, the inventive method of claim 8 is not obvious over Teller. Further, Teller fails to disclose or suggest instructions in written form to be provided to a user of the inventive device as in the present invention. Accordingly, the presently claimed invention is not obvious over Teller.

Claim 10: The Examiner states that the instructions in Teller are transmitted by broadcast.

Distinctions of the presently claimed invention over Teller

The Examiner has failed to establish *prima facie* obviousness of the invention. As described above in response to rejection of claim 8, which claim 10 depends from, the inventive method of claim 8 is not obvious over Teller. Further, Teller fails to disclose or suggest instructions to be transmitted by broadcast to a user of the inventive device as in the present invention. Accordingly, the presently claimed invention is not obvious over Teller.

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Claim 16: The Examiner indicates that though Teller fails to disclose that the chart is displayed on paper, it would have been obvious to print the chart on a piece of paper for easy examination.

Distinctions of the presently claimed invention over Teller

The Examiner has failed to establish *prima facie* obviousness of the invention. Applicant submits that Teller fails to disclose or suggest a chart comprising corrected skin temperature profile over a set time period as in the presently claimed invention. Teller also fails to disclose or suggest the chart printed on paper as in the presently claimed invention. Accordingly, the presently claimed invention is not obvious over Teller.

Claim 17: The Examiner indicates that it would have been obvious to consider infrequent movements of the baby as a factor to determine an abnormal situation in the Teller's monitoring system.

Distinctions of the presently claimed invention over Teller

The Examiner has failed to establish *prima facie* obviousness of the invention. The Teller reference fails to disclose or suggest a chart comprising corrected skin temperature profile, ambient temperature profile and a movement profile over a set time period as in the presently claimed invention. And since Teller fails to provide any motivation to use its disclosed device for monitoring baby's movement, the Teller reference fails to be applicable to the claimed invention. Accordingly, the presently claimed invention is not obvious over Teller.

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Claim 18: The Examiner states that the method disclosed in Teller comprises reviewing and analyzing the chart recited in claim 13, to determine a pattern of rise or fall in corrected skin temperature, which indicates the presence of an infection.

Distinctions of the presently claimed invention over Teller

The Examiner has failed to establish *prima facie* obviousness of the invention. First of all, Teller fails to disclose a method of determining an infection. As described above in response to the rejection of claim 17, Teller also fails to disclose or suggest a chart comprising corrected skin temperature profile, ambient temperature profile or a movement profile over a set time period as in the presently claimed invention. Teller also fails to disclose or suggest a method of determining an infection in a baby by reviewing and analyzing the chart. Accordingly, the presently claimed invention is not obvious over Teller.

Conclusion

It is believed that the application is now in condition for allowance. Applicants request the Examiner to issue a notice of Allowance in due course. The Examiner is encouraged to contact the undersigned to further the prosecution of the present invention.

The Commissioner is authorized to charge JHK Law's Deposit Account No. 502486 for any fees required under 37 CFR § 1.16 and 1.17 and to credit any overpayment to said Deposit Account No. 502486.


Respectfully submitted,

JHK Law

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